

UNITED STATES DISTRICT COURT
DISTRICT OF MASSACHUSETTS

MASSACHUSETTS TEACHERS ASSOCIATION,
et al.,

Plaintiffs,

v.

DAVID P. DRISCOLL, as he is the Chairman of the Massachusetts Teachers Retirement Board, et al.,

Defendants.

CIVIL ACTION
NO. 04-10910-EFH

SUGGESTION OF MOOTNESS AND STIPULATION OF DISMISSAL

Pursuant to Fed. R. Civ. P. 12(h)(3) and 41(a)(1), the parties to this action hereby state as follows:

1. Plaintiffs filed this action seeking a declaration that the repeal by the Massachusetts Legislature of Mass. Gen. Laws c. 32, § 5(1)(e) violated the Contracts Clause and the Takings Clause of the United States Constitution insofar as it denied a retirement benefit to Massachusetts public employees who became members of the retirement system after the passage of section 5(1)(e) but prior to the effective date of its repeal. The Legislature has enacted legislation making the repeal prospective only. In light of the enactment of St. 2004, c. 149, § 322, it appears that the above-referenced matter is moot.

2. Accordingly, the parties stipulate that all claims in the above-entitled action against the defendants shall be dismissed.

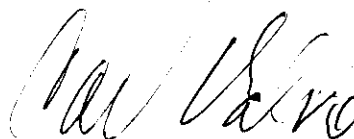
3. Plaintiffs and defendants shall each bear their own costs and attorney's fees.

Respectfully submitted,

MASSACHUSETTS TEACHERS
ASSOCIATION, et al.,

By their attorneys,

COSGROVE, EISENBERG & KILEY, P.C.



Carl Valvo (BBO #507380)
Nicholas A. Kenney (BBO #650784)
Cosgrove, Eisenberg & Kiley, P.C.
One International Place, Suite 820
Boston, Massachusetts 02110
(617) 439-7775

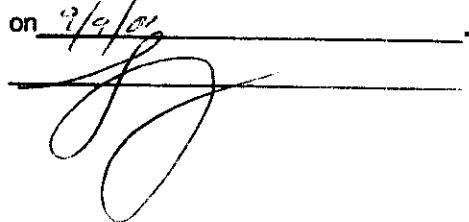
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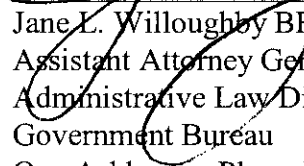
By their attorneys,

THOMAS F. REILLY
ATTORNEY GENERAL

CERTIFICATE OF SERVICE

I hereby certify that a true copy of the above
document was served upon the attorney of
record for each other party ~~by mail~~ (by hand)

on 9/9/04




Jane L. Willoughby BBO 555693
Assistant Attorney General
Administrative Law Division
Government Bureau
One Ashburton Place, Rm. 2019
Boston, Massachusetts 02109
(617) 727-2200, ext. 2615

Dated: 9/9/04